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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s)

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Myanmar: Human rights reforms under threat

Myanmar's backsliding on human rights reforms – only a few months before general elections – underscores the necessity for the UN Human Rights Council (HRC) to adopt a strong resolution on the situation of human rights on the country and to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar.

HRC resolutions on the situation of human rights in Myanmar and the mandate of the Special Rapporteur have been critical to demonstrating the international community's support for human rights in Myanmar and have made a positive contribution towards improving the human rights situation there.

Continued strong engagement by the HRC is warranted as the human rights situation in the country remains serious. Myanmar is failing to make progress in several important areas and has slid back worryingly in others, just a few months before general elections. It is crucial that international scrutiny continues at such a critical juncture in the country's history.

The following is an overview of Amnesty International's concerns on the human rights situation and recommendations for the HRC's consideration. In addition to this statement, the organization has submitted to this session a written statement with concerns and recommendations relating to protection of people from abuses linked to extractive projects in Myanmar.[1]

Increased restrictions on freedoms of expression and peaceful assembly

Since the last HRC resolution on Myanmar, Amnesty International has documented an increase in the number of prisoners of conscience in the country,[2] in addition to an alarming rise in the harassment, arrest and detention of individuals who are simply exercising their rights to freedom of expression and peaceful assembly. These include human rights defenders, political activists, journalists, land activists, and farmers.

Furthermore, the government has not taken any effective steps to repeal or amend laws that violate the rights to freedom of expression and peaceful assembly or are used to punish the exercise of these rights. This creates an environment in which human rights defenders and journalists fear reprisals, which undermines their ability to carry out their legitimate work.

Amnesty International also continues to receive reports of other violations within the criminal justice system, including torture and other ill-treatment and unfair trials.

Crisis in Rakhine state

The situation of the Rohingya has continued to deteriorate. In Rakhine state, what started as a humanitarian emergency has increasingly become an entrenched human rights crisis.

The dire humanitarian situation of an estimated 139,000 displaced people in Rakhine State – mostly Rohingya – worsened following the expulsion of some humanitarian organizations in February and March 2014, and the withdrawal of others following attacks against them in March 2014. Although access has resumed for some organizations, humanitarian assistance has not returned to the levels prior to the attacks.

The situation in Rakhine state is fragile, and security concerns for people there are high. The Rohingya remain deprived of nationality under the 1982 Citizenship Act, and as a result they have continued to face restrictions on their freedom

[1] *Myanmar: Human Rights Council should address the need for stronger safeguards to ensure business respects human rights*, available http://www.amnesty.org/en/library/info/ASA16/011/2015/en .

[2] See for example *Myanmar: Stop using repressive law against peaceful protesters*, 15 October 2014 and *Myanmar: Jailing of new prisoners of conscience casts doubt on reform* , 2 May 2014, in addition to multiple urgent appeals available at: http://www.amnesty.org/en/region/myanmar.

of movement, with repercussions for their access to livelihoods. Amnesty International is particularly concerned about the proposed Rakhine State Action Plan, a leaked copy of which looks set to further entrench discrimination against the Rohingya. Furthermore, the government has not made the plan publically available – or consulted with affected communities.

The dire humanitarian situation, coupled with pervasive discrimination, increasing advocacy of hatred and threats of further restrictions, has pushed growing numbers of people to leave the Myanmar in recent months. In 2014 alone, the UN High Commissioner for Refugees (UNHCR) estimated 53,000 people left the Bay of Bengal by boat. Between October and December, UNHCR recorded a 37 per cent increase in the number of people departing compared to the previous year.

Rising religious intolerance

Amnesty International is particularly concerned about the package of laws aimed at "protecting race and religion", which are currently under consideration by the Parliament. The four laws – the Religious Conversion Bill, the Population Control Bill, the Myanmar Buddhist Women's Special Marriage Bill and the Monogamy Bill – contain many aspects that do not comply with international human rights law and standards, including Myanmar's legal obligations as a state party to the CEDAW and the CRC. Many provisions in these four laws discriminate on multiple grounds, including gender, religion and marital status.

Amnesty International is concerned that the passage of these four laws will not only result in increased discrimination, it could further heighten existing tensions between religious groups. We are deeply concerned about the continued rise in religious intolerance and hardline nationalist attitudes. The government has failed to speak out against the growing use of advocacy of hatred to incite discrimination, hostility and violence.

We share the condemnation by the UN High Commissioner on Human Rights of the deeply offensive and sexist comments made against the Special Rapporteur at the end of her visit to Myanmar. We note that others who speak out against hardline religious and nationalist views have also faced retaliation from state and non-state actors, including threats, harassment and even possible arrest. For example, writer Htin Lin Oo is currently in detention and facing imprisonment for making a speech criticizing the use of religion to promote discriminatory views. He faces up to three years in prison.

Failure to address human rights violations and abuses, including discrimination against Rohingya, and to address growing hardline nationalist attitudes and advocacy of hatred is a recipe for further violence.

Human rights violations and abuses in conflict areas

The situation in Myanmar's ethnic minority areas also deteriorated in 2014, with fighting in Northern Shan State and Kachin State now in its fourth year. Worryingly, violence appears to have intensified since the beginning of 2015, displacing parts of the civilian population.

Violations of international humanitarian and human rights law continue, with ongoing reports of unlawful killings and torture and other ill-treatment, including rape and other crimes of sexual violence – in particular by the Myanmar security forces. Amnesty International also receives reports of human rights abuses by armed groups aligned with certain ethnic groups. However, impunity persists for such violations and abuses, with perpetrators rarely, if ever, brought to justice.

Around 98,000 people remain displaced in Kachin and Northern Shan States. However, the Myanmar government continues to deny full and sustained access for humanitarian actors to displaced communities, particularly those displaced in Kachin Independence Army-controlled areas.

Impunity

Immunity from prosecution for past violations by the security forces and other government officials remains codified in Article 445 of the 2008 Constitution, meaning that perpetrators of both current and past human rights violations

continue to enjoy impunity. As a result, victims of both past and current human rights violations and their families have continued to be denied truth, justice, compensation and any other form of reparation.

Need for the prompt opening of an OHCHR country office

Despite commitments from the Myanmar government, the Office of the UN High Commissioner for Human Rights (OHCHR) has not yet been able to establish an office in the country. The establishment of an OHCHR office, with a full protection and promotion mandate and access to all areas of the country, is crucial to ensure monitoring of and reporting on the human rights situation in the country. While Amnesty International notes that there are several OHCHR staff able to work in Myanmar, the organization is concerned that they do not have full and sustained access to the country. This not only seriously impedes their ability to undertake their work, it raises serious questions about the extent to which the Myanmar government is co-operating with OHCHR.

Recommendations

- Amnesty International recommends that the HRC extend the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar and urge the government to co-operate fully with the Special Rapporteur and other Special Procedures.[3]

Further, Amnesty International recommends that the HRC, its members and observer States urge the Government of Myanmar to:

- Release immediately and unconditionally all prisoners of conscience and drop charges against those currently not detained, but who are facing imprisonment simply for the peaceful exercise of their human rights;
- Ensure human rights defenders and journalists can carry out their legitimate work without fear of reprisal;
- End all discrimination in law, policy and practice against ethnic and religious minorities, and ensure Rohingya have equal access to citizenship rights;
- Ensure that humanitarian aid organizations have full and unfettered access to all displaced persons throughout the country;
- Immediately put an end to violations of international human rights law – including rape and other crimes of sexual violence – especially against members of ethnic minority groups;
- Ensure all those who are responsible for human rights violations and abuses – including those with command responsibility – are brought to justice in fair proceedings, without the imposition of the death penalty, and that victims can access truth, justice and full and effective reparation;
- Ratify and effectively implement international human rights treaties including the ICCPR; the IESCR, and the CAT;
- Engage constructively in the Universal Periodic Review when Myanmar is reviewed in late 2015; and
- Facilitate the establishment of an office of the OHCHR able to operate throughout Myanmar with a full promotion and protection mandate.

[3] http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx